



## INTERIOR BOARD OF INDIAN APPEALS

Idaho Mining Corp. v. Deputy Assistant Secretary - Indian Affairs (Operations)

15 IBIA 132 (03/11/1987)

Also published at 94 Interior Decisions 68

Related Board case:

11 IBIA 249

Reversed, *Wilson v. U. S. Department of the Interior*, No. CV-R-83-350-BRT  
(D. Nev. Aug. 7, 1985)

Vacated and remanded, 799 F.2d 591 (9th Cir. 1986)

Vacated and remanded, No. CV-R-83-350-BRT (D. Nev. Oct. 9, 1986)



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

IDAHO MINING CORPORATION,	:	Order Vacating Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 87-23-R
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS) ,	:	
Appellee	:	March 11, 1987

On July 29, 1983, the Board of Indian Appeals (Board) issued a decision in Idaho Mining Corp. v. Deputy Assistant Secretary--Indian Affairs (Operations), 11 IBIA 249, 90 I.D. 329 (1983). The decision affirmed a May 21, 1982 decision of the Deputy Assistant Secretary--Indian Affairs (Operations) denying a request for the issuance of mining leases pursuant to the provisions of Mineral Prospecting Permit Contract No. 14-20-H53-313, between Idaho Mining and the Walker River Paiute Indian Tribe (tribe), of the Walker River Indian Reservation, Nevada.

W. L. Wilson, et al., appealed the Board's decision to the United States District Court for the District of Nevada. The district court reversed the Board's decision, holding that Idaho Mining was "entitled as a matter of law to the mineral leases for which [it] has applied." Wilson v. United States Department of the Interior, No. CV-R-83-350-BRT (D. Nev. Aug. 7, 1985).

The Department appealed this decision to the Ninth Circuit Court of Appeals. On appeal the Department argued that the action was moot because on January 12, 1984, the tribal council resolved not to enter into mineral leases with Idaho Mining. The court held that the case was moot because "[n]either this court nor the district court can grant Idaho Mining relief in this action because the Tribe has not been named as a party. Only the Tribe has authority to lease its lands. The Secretary's authority extends only to approving or disapproving leases entered into by the Tribe." Wilson v. United States Department of the Interior, 799 F.2d 591, 592 (1986).

The court concluded:

[B]ecause the Tribe will not enter into a lease with Idaho Mining, the Secretary has no authority over Idaho Mining's lease application. \* \* \* The action of the Secretary was premature and, thus, invalid. Because we can neither affirm the disapproval nor order the approval of a lease over which the Secretary had no authority, this action is moot. [Id.]

The court then vacated the district court's order and remanded the case to the district court for vacation of the Board's decision and remand to the Secretary. Id.

Pursuant to this remand, the district court vacated the Board's decision and remanded the case to the Secretary "to vacate the decision denying the appellant's request for a lease." Wilson v. United States Department of the Interior, No. CV-R-83-350-BRT (D. Nev. Oct. 9, 1986).

By memorandum dated February 13, 1987, the Board was informed by the Solicitor's Office of the courts' actions in this appeal. In order to avoid any possible confusion over the status of this case, the Board hereby vacates its July 29, 1983, decision and refers this matter to the Assistant Secretary--Indian Affairs for vacation of the earlier decisions of the Bureau of Indian Affairs.

\_\_\_\_\_  
//original signed

Kathryn A. Lynn  
Administrative Judge

\_\_\_\_\_  
//original signed

Anita Vogt  
Acting Chief Administrative Judge